

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re: BAIR HUGGER FORCED
AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/DTS)

This document relates to:

Judge: Joan N. Ericksen
Mag. Judge: David T. Schultz

Manheim v. 3M Company, et al.
Cause No. 0:18-cv-01456

PLAINTIFF'S OPPOSITION TO DEFENDANT'S
MOTION TO DISMISS

COMES NOW Plaintiff Kathleen Manheim and in response to Defendants' Motion to Dismiss for failure to comply with Pre-Trial Order 14 (1934, 1935), states:

1. Counsel for Plaintiff has been advised of alleged deficiencies in the submitted Plaintiff Fact Sheet(PFS).

2. Plaintiff and her counsel have repeatedly attempted to correct the deficiencies, as is evidenced by the multiple PFS forms submitted. Despite multiple attempts (six total through June 19, 2019), Defendants continued to allege deficiencies.

3. On June 17, 2019, counsel for Plaintiff provided a completed medical authorization.

4. To date, Plaintiff does not know the dates of birth of several of the decedent's children from his prior marriage and has not been able to obtain this information despite her good faith attempts. Plaintiff additionally does not know the date of birth of the decedent's former spouse and has notated that correctly.

5. Under Section III, Plaintiff has correctly identified the records, which also had

been attached previously to address a prior deficiency.

6. Plaintiff has provided the phone number for Walmart Pharmacy to address the deficiency.

7. On June 19, 2019, Plaintiff served a further Plaintiff Fact Sheet.

8. The nature of the remaining deficiency is not substantive. Rather, the lack of the verification to the updated responses is more procedural in nature that will be remedied on or before thirty (30) days.

9. Given the nature of the deficiencies and Plaintiff's repeated good faith attempts to cure them, Plaintiff requests this Court deny Defendants Motion to Dismiss with Prejudice.

10. Plaintiff will suffer undue prejudice if this case is dismissed as the use of this product resulted in the death of her husband. Plaintiff submits a brief extension of time to complete this remaining task is reasonable in light of the severity of the allegations in the underlying complaint.

WHEREFORE, Plaintiff Kathleen Manheim prays this Court deny Defendants' Motion to Dismiss with Prejudice.

Respectfully submitted,

MORRIS LAW FIRM

/s/James A. Morris, Jr.

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ATTORNEY FOR PLAINTIFF

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L.R. 7.1 WORD COUNT COMPLIANCE CERTIFICATE

I, James A. Morris, Jr., certify that Plaintiff's Opposition to Defendants' Motion to Dismiss complies with Local Rule 7.1(f) and 7.1(h).

I further certify that, in preparation of this Opposition, I used Microsoft Word and that this word processing program has been applied specifically to include all text, including headings, footnotes and quotations in the following word count.

I further certify that the above referenced Opposition contains 323 words, exclusive of the caption and signature block.

Dated: June 19, 2019

Respectfully submitted,

MORRIS LAW FIRM

/s/James A. Morris, Jr.

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on June 19, 2019, the foregoing: PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS was filed electronically by using the CM/ECF system which will deliver the document to all counsel of record.

/s/ James A. Morris, Jr.

James A. Morris, Jr.